

MINNESOTA JUVENILE DIVERSION

A SUMMARY OF STATEWIDE PRACTICES AND PROGRAMMING

EXECUTIVE SUMMARY

JUNE 2012



DEPARTMENT OF PUBLIC SAFETY
OFFICE OF JUSTICE PROGRAMS

EXECUTIVE SUMMARY

Juvenile diversion, or the intentional decision to address unlawful behavior outside of the formal juvenile justice system, has long been in practice in the state of Minnesota. In 1995, a provision to establish at least one juvenile diversion program in each Minnesota county became a uniform requirement under Minnesota Statute § 388.24. This legislation further solidified diversion in Minnesota as both a cost-saving measure and a pro-social, community-based response to youth offending.

While statute specifies the purpose of diversion and establishes minimum eligibility criteria, most aspects of juvenile diversion programming and service delivery in Minnesota are left to individual counties to determine. With 87 counties diversion can vary widely, including which youth receive diversion, what agency oversees programming, conditions necessary to complete diversion and services offered.

This report provides an overview of juvenile diversion programs and services across the state of Minnesota using information collected directly from diversion service providers. The recommendations included in this report are derived from literature related to best practices in pretrial diversion as well as gaps and inconsistencies in diversion service delivery and policy identified in the interviews. It is the intention that the findings of this report will be useful to support the work of juvenile-diversion providers; to advocate for continued and enhanced diversion opportunities; to promote greater consistency in the use of diversion; and to highlight the importance of data collection and evaluation to effective service delivery.

STUDY METHODOLOGY

In 2011, the Minnesota Department of Public Safety Office of Justice Programs developed and tested a survey instrument to collect information from diversion providers regarding their interventions and services. The survey consisted of 100 questions related to program operations; staffing and budgets; eligibility criteria and service numbers; diversion program requirements for youth and families; data collection and outcomes measurements; and personal perceptions of diversion providers.

Eighty-five semi-structured telephone interviews were conducted involving 91 participants. All 87 Minnesota counties are represented in this study. Upon completion of the interviews, a coding system was created such that responses could be transferred to spreadsheets for analysis of statewide program characteristics.

SCOPE

While a variety of diversion activities exist in Minnesota both before and after a court appearance, this report focuses on diversion programs existing under Minnesota Statute § 388.24 intended to prevent charges from being forwarded by the county attorney to juvenile court. Diversion programs operated before referral to the county attorney (such as by law enforcement), or those occurring after a youth has appeared in court are not analyzed in this study. Study participants were made aware of the scope of the project prior to the interview.

PREVALENCE OF PRE-TRIAL DIVERSION IN MINNESOTA

The number of youth diverted in a given year is difficult to assess as these data are maintained at the individual county level. Presumably, the number of juvenile arrests less the number of juvenile petitions filed in court reflects the number of youth who have been diverted from formal system processing for any reason. These cases include those ending in successful diversion participation as well as those that are declined by the county attorney or otherwise transferred to another child-serving agency or state.

In 2009 and 2010, data provided by the Minnesota Bureau of Criminal Apprehension and select individual police departments suggests that an average of 52,750 juvenile arrest events occurred. In these data, arrests are both custodial arrests as well as the issuance of tickets and citations. According to the state Court Administrator's Office, there were an average of 40,100 petitions filed in court for delinquency, petty misdemeanors/status offenses, truancy and runaway in 2009 and 2010. If total petitions are subtracted from total arrests, the remainder is an average of 12,650 cases diverted annually from judicial processing.

Diversion providers in this study were asked to estimate the number of youth diverted by their county in a typical year. When totaled, the range reported in Minnesota was between 13,000 and 14,500 per year. If one factors in an approximate 5 percent diversion failure rate (which likely go on to be prosecuted), between 12,350 and 13,775 youth are successfully diverted annually. This falls within the range of, and accounts for, the majority of cases diverted from judicial processing. These calculations are further illustrated in the table below.

Estimated System Stage Counts	2009	2010	Average 2009-2010
Total Juvenile Arrests	55,500	50,000	52,750
Total Juvenile Petitions Filed: Delinquency, Status, Petty Offender, Truancy and Runaway	41,500	38,700	40,100
Total Cases Not Charged (Arrests minus Petitions)	14,000	11,300	12,650
Percent of Juvenile Arrests Not Charged	25.2%	22.6%	24.0%
Estimate of Cases Successfully Completing Diversion Programs	12,350 to 13,775	12,350 to 13,775	12,350 to 13,775
Percent of Juvenile Arrests	22.3% to 24.8%	24.7% to 27.6%	23.4% to 26.1%

While these are largely estimates and averages, it suggests that in any given year about one-quarter of all juveniles arrests are in some way diverted, and that formal diversion programs account for the majority of cases diverted. This gives diversion programs a unique and important role in the juvenile justice system. Furthermore, petition data support that just less than half of all juvenile petitions filed are for petty/status level offenses. In theory, nearly 20,000 additional petitions a year could be diverted as non-delinquency matters.

SUMMARY OF FINDINGS

In 2011, the John D. and Catherine T. MacArthur Foundation's *Models for Change Initiative* released a report entitled the *Juvenile Diversion Guidebook*. The report outlines 16 specific steps that agencies should take when developing, implementing or improving a juvenile diversion program. Because the "16 steps" of the guidebook clearly depict the key questions that must be answered related to diversion, this report uses the following format of their report as a template for presenting Minnesota's data.

THE MODELS FOR CHANGE INITIATIVE <i>JUVENILE DIVERSION GUIDEBOOK</i>	
16 STEPS FOR PLANNING A DIVERSION PROGRAM	
<u>Section A: Purpose</u> 1. Program Objectives 2. Referral Decision Points 3. Extent of Intervention <u>Section B: Oversight</u> 4. Operations 5. Funding <u>Section C: Intake Criteria</u> 6. Referral and Eligibility 7. Screening and Assessment	<u>Section D: Operation Policies</u> 8. Participant Requirements 9. Services 10. Incentives 11. Consequences of Failure to Comply 12. Program Completion/Exit Criteria <u>Section E: Legal Protections</u> 13. Information Use 14. Legal Counsel <u>Section F: Quality</u> 15. Program Integrity 16. Outcome Evaluation

A summary of each step presented in the Models for Change *Juvenile Diversion Guidebook* is provided, followed by a presentation of Minnesota's diversion survey results related to that step. This report includes one additional section (G), capturing the opinions of diversion providers as to what additional diversion service needs exist in Minnesota.

The following sections summarize select data collected during interviews conducted with Minnesota juvenile diversion providers; best practices supported by juvenile justice literature; and recommendations specific to improving juvenile diversion services in Minnesota.

SECTION A: PURPOSE OF DIVERSION

STEP 1: PROGRAM OBJECTIVES

According to the Models for Change *Juvenile Diversion Guidebook*, it is vital to consider the purpose of a juvenile diversion program when planning and implementing a program. To determine this, the primary objectives of the diversion program must be identified.

Minnesota Findings:

- Under statute § 388.24, every county attorney in the state must offer at least one diversion opportunity for youth with misdemeanor to felony-level offenses. The majority of counties (75%) have one diversion program; the greatest number of programs in a single county was seven. Service areas are most often countywide (71%) with an additional 16 percent offering diversion as a part of a multi-county service collaborative.
- The purpose of juvenile diversion is specified in Minnesota Statute § 388.24 and is largely reflected in county-level diversion materials. These materials include reference to an alternative to formal justice system processing; reduction in costs and justice-system caseloads; reducing recidivism; and making restitution to victims. Additional benefits of diversion highlighted in materials were the opportunity for youth to not have an offense on their record; for youth to take accountability for their actions; and to address youths' underlying issues.

STEP 2: REFERRAL DECISION POINTS

The stage of the juvenile justice process at which a juvenile is referred to a diversion program is an important component to diversion program design. The Models for Change *Juvenile Diversion Guidebook* suggests two questions to be answered: at what point or points will referral decisions be made; and who within the processing spectrum will be responsible for making the decision to divert youth?

Minnesota Findings:

- Minnesota Statute § 388.24 specifies that diversion is to apply once a charging document has been filed but before a youth makes a plea in court. As such, pretrial juvenile diversion typically occurs in lieu of a court appearance.
- Depending on what entity operates the diversion program, referrals for diversion are most often received in

Section A: Select Best Practices

- The program's mission and goals should be known by staff, and disseminated to system partners and stakeholders.
- All programs should utilize a written diversion agreement or contract that confirms youths' voluntary participation and clearly states the conditions necessary to successfully complete the diversion program.
- Diversion should occur at the earliest justice-system decision point as possible but always prior to disposition.
- Diversion programs should have time limitations that do not exceed those that the court would impose were they adjudicated for the offense.
- The frequency and intensity of diversion services delivered should be based on the principle that lower-risk youth require a lesser intervention whereas higher-risk youth require greater intervention.
- Allowing youth to successfully complete diversion as soon as all their conditions are completed can be a built-in incentive for program participation.

Minnesota by county attorneys (87%), law enforcement (40%), probation/court services (24%) and schools (17%).

- In three-quarters of Minnesota counties (75%), the county attorney's office makes the diversion decision, followed by the probation department (9%).

STEP 3: EXTENT OF DIVERSION

According to the Models for Change *Juvenile Diversion Guidebook*, many programs have specific conditions that must be met or services in which youth must participate. To determine the extent of the intervention, the Models for Change *Juvenile Diversion Guidebook* asks programs to consider what degree of intervention will the program utilize; and will the program provide the youth with a written contract (either formal or informal)?

For programs with set conditions, the Models for Change *Juvenile Diversion Guidebook* emphasizes that conditions should be clear, in writing and use measureable objectives (deadlines, work hours, restitution amount, etc.). Programs should clearly reflect that the child voluntarily consents to participate in diversion and set a definite, limited duration.

Minnesota Findings:

- Most program components, including length of diversion and whether acknowledgement of guilt is required, are determined at the county level. Minnesota is presently inconsistent as to whether youth must admit to the offense in order to be diverted (78% yes; 20% no); and whether youth must sign a written diversion contract (88% yes; 10% no).
- The amount of time youth are on diversion ranges from maximums of 60 days to 365 days. The most common length of time to complete diversion conditions was 90 days (51% of counties). Counties also vary in whether a youth successfully completes diversion once the conditions are met, or if they remain on supervision until the maximum time has expired.

Section A: Select Recommendations

- Diversion program providers should have a written mission statement and goals. Programs should regularly review their program activities to ensure compliance and consistency with the goals of diversion as are outlined in Minnesota statute.
- Youth participating in diversion should be provided with a written contract or agreement that clearly states the conditions of their diversion and obligations they must fulfill for successful completion.
- Minnesota ought to have a standardized maximum length of pretrial diversion. Based on other juvenile justice timelines, 180 days would be a good starting point for discussion.
- Standardize whether youth remain on diversion until conditions are met or until the maximum diversionary period has expired. In the interest of swift accountability and limited justice system involvement for low-risk youth, it is recommended that youth be discharged from diversion as soon as all contract criteria are complete.
- Minnesota counties vary in whether an admission of guilt is required to participate in diversion. County attorneys and public defenders ought to convene and establish a standard procedure on this issue in Minnesota.

SECTION B: PROGRAM OVERSIGHT

STEP 4. OPERATIONS

According to the Models for Change *Juvenile Diversion Guidebook*, it is important when planning a diversion program to answer key questions related to program operations, including what agency or office will house and maintain the program; and how the community will be used to oversee the program?

Minnesota Findings:

- Nearly three-quarters of counties (72%) indicate that the probation/corrections department operates diversion, followed by nearly one-third of (31%) of county attorneys who keep the program “in house.” In 8 percent of counties, diversion is provided by community-based programs.
- Four in 10 counties (42%) estimate having 10 or fewer youth on diversion at any one time. The highest number of youth on diversion at any one time was 500. As such, youth diverted in a typical year in individual Minnesota counties ranged from 0 to 2,400.

STEP 5. FUNDING

Programs must identify how much funding is needed to provide programming. When considering funding sources, the Models for Change *Juvenile Diversion Guidebook* stresses sustainable funding streams, as well as exploring local, state and federal resources that can support programming. Considering how the program can be sustained long-term and keeping stakeholders informed about funding are two precautions that programs can take to ensure preparation for future issues or for program expansion.

Minnesota Findings:

- In 80 percent of counties, diversion is funded wholly or in part by provisions within the operating budgets of probation/corrections and county attorneys. Nearly half of counties (45%) support diversion through supervision or user fees. State and federal grants rounded out the top three funding sources for diversion in Minnesota.

Section B: Select Best Practices

- Active participation by the community in diversion planning and goals is a best practice in service delivery.
- Diversion programs should consider multiple funding sources when planning for sustainability, including non-traditional funding streams and resource-sharing tactics.
- Program staff should be clear on the program’s mission and goals; be trained in best practices; know how to administer assessment and screening tools; and be trained in curricula or course delivery.

Section B: Select Recommendations

- A consistent funding stream for juvenile diversion programming should be explored at the state level. Such funding might consider a formulaic calculation based on the overall juvenile population in the county or arrest and diversion statistics.
- Diversion should occur as soon after the youth’s behavior as possible. Obstacles to timely transfer of the citation or charging document to the screening agency should be addressed.
- Diversion ought to limit contact with justice system players as much as possible. To the extent possible, monitoring and delivery of diversion services can be administered by community-based agencies rather than juvenile justice settings.

- The majority of respondents (68%) described funding for diversion in their county as stable. Those who felt funding was moderately stable to unstable were unsure where funds would come from following the expiration of grants; relied more heavily on user fees; or had less established programs to support.

SECTION C: INTAKE CRITERIA

STEP 6. REFERRAL AND ELIGIBILITY

According to the Models for Change *Juvenile Diversion Guidebook*, there are multiple stages at which eligibility for diversion can be assessed. First and foremost, it is important that cases meet legal sufficiency to ensure that cases which would otherwise not meet charging criteria are not processed through diversion, a phenomena known as “net widening.”

It is often the case that diversion programs will only serve youth who have no prior involvement with the juvenile justice system or diversion. Programs need to consider what kind of offense they wish to target and whether an offense history will impact eligibility.

Minnesota Findings:

- All counties in Minnesota divert both males and females. Most commonly, youth ages 10 to 17 are eligible for diversion.
- Generally, a prior offense history in Minnesota will preclude youth from diversion in 84 percent of counties. Nevertheless, many counties noted that there is discretion on the matter. State statute only limits diversion for youth with a past adjudication for a person offense.
- The most common offenses targeted for diversion in Minnesota counties are alcohol offenses, shoplifting, marijuana offenses, theft and tobacco offenses. Roughly one-half of counties also divert curfew violations and disorderly conduct.
- Beyond offense type and criminal history, youth may be excluded from diversion in select counties if they have had prior diversion; if they owe victim restitution; or if they reside in a different county.
- Most counties stated that prior diversion does not automatically preclude youth from another diversion opportunity. The severity of the offense, how much time has passed between offenses, and the charge on which the youth was initially diverted are all factors in whether youth will be diverted again.

Section C: Select Best Practices

- Access to diversion should be broadly and equitably applied. In no case should diversion be denied based on race, ethnic background, religion, gender, disability, sexual orientation or economic status.
- Programs should establish formalized eligibility criteria. States and jurisdictions can determine what level of offenses and criminal histories, if any, are precluded from diversion based on the values and public safety needs of their community.
- Screening tools and more formal assessments can assist diversion providers in making appropriate referrals to diversion, meaningful diversion conditions, and connecting youth and families to the services they need.
- Risk tools must be standardized, and demonstrated to be reliable and valid. Staff must be trained to administer tools and the appropriate professionals must interpret the results, when necessary.

- Two-thirds of counties (67%) use some method for tracking which youth receive diversion in their county. The majority of participants stated they do not have any way of knowing if youth have completed diversion in another Minnesota county.

STEP 7. SCREENING AND ASSESSMENT

Screening and assessment allow diversion programs to determine if youth have specific areas of need, risk or difficulty. According to the Models for Change *Juvenile Diversion Guidebook*, the purpose of a screening is to give providers information about youth and determine who requires a deeper level assessment or service intervention. Assessments are evaluations that give a more comprehensive understanding of the youth's needs and risks in a particular area.

Minnesota Findings:

- Minnesota diversion programs generally do not assess a youth's ability to complete diversion beyond an informal assessment through an intake interview (67%). Many programs will make modifications to the diversion conditions to meet the cognitive or developmental needs of youth.
- Programs that do conduct screenings as a part of the diversion referenced the following tools: *Massachusetts Youth Screening Instrument (MAYSI)*; *Personal Experience Screening Questionnaire (PESQ)*; *Problem Oriented Screening Instrument for Teenagers (POSIT)*, and *Youth Level of Service Inventory (YLSI)*.

Section C: Select Recommendations

- Based on the risk-responsivity principle, diversion should target youth with fewer criminogenic needs, whereas youth with greater needs should receive greater resources. A pre-diversion screening instrument could provide additional information as to which youth ought to be diverted as compared to those who may more appropriately be served in the justice system.
- County attorneys ought to retain discretion as to whether it is appropriate for youth to have multiple diversion opportunities. Greater consistency on these factors across county jurisdictions would be beneficial to ensure equitable application of diversion.
- Develop a universal screening instrument that counties can elect to use to determine the appropriateness of diversion, need for referral to additional services, and criminogenic attitudes to target during diversion.
- Expand diversion services to more person-based offenses, such as disorderly conduct, threats, and fifth-degree assault. Provide person-based offense diversions based on the principles of restorative justice consistent with Minnesota Statute § 609.092.
- Create or identify an existing database to track county-level diversions statewide. Allow counties state-level access to determine if youth have previously been diverted in other Minnesota counties.

SECTION D: OPERATION POLICIES

STEP 8. PARTICIPANT REQUIREMENTS

A primary objective of juvenile diversion is to offer youth an alternative experience to the juvenile justice system. Although diversion programs offer a different experience than formal adjudication, there is a need to hold youth accountable. These requirements should be in the form of measurable objectives that are monitored over a period of time.

According to the Models for Change *Juvenile Diversion Guidebook*, there are two broad areas that programs must consider: the specific requirements that programs set for youth to determine successful completion of the diversion program; and how to inform youth and caretakers of the nature of the program, and full disclosure of consequences involved with participating and not participating.

Minnesota Findings:

- The most common conditions of diversion that youth receive in 67 percent of Minnesota counties is community work service (CWS), followed by apology letters (51%), and payment of restitution (37%).
- The number of CWS hours youth receive also varies significantly among counties from less than 10 hours to as many as 80 for felony-level youth. The number of hours is often determined by the diversion agent based on the offense or the amount of restitution owed. There is a juvenile work crew option for youth in 38 percent of.

STEP 9. SERVICES

Diversion program services can vary significantly based upon who is operating the program, requirements for completing the program, and objectives of the program. The operator of the program can administer services in-house or refer program components to other service providers.

According to the Models for Change *Juvenile Diversion Guidebook*, some key questions about services a program should ask are: what services will be provided for the youth while participating in the diversion program; what services are available in the community; and will the diversion program encourage or require the youth's family to participate in services?

Section D: Select Best Practices

- Diversion conditions should ideally target risk factors that, when addressed, reduce the likelihood of future offending. These risk and need areas should be based on the results of a risk/needs assessment.
- Restorative justice principles should be incorporated into diversion, including community work service, victim restitution, apology letters and rehabilitative activities.
- Diversion services should, if possible, be located in community-based settings to maximize community assets and reduce labeling.
- Gender-specific and culturally specific programs increase outcomes for girls and youth of color involved in the juvenile justice system.
- Youth who successfully complete diversion should have their charges dismissed.
- Best practices in diversion support clear, graduated sanctions that lead up to unsuccessful completion. In the event of unsuccessful completion, all rights in the juvenile justice system should be restored.
- Individual programs must determine how to proceed if youth are re-arrested or receive new charges while on diversion. It is recommended that a new arrest or charge not automatically result in termination, but that all factors be considered prior to revocation.

Minnesota Findings:

- Just over half of counties (53%) reported that there is no classroom-based educational component in their diversion program. Generally, counties that require a classroom or educational component indicated that they meet one to two times for two to four hours.
- The most common educational components reported include alcohol-related classes (49% of counties); shoplifting, theft or property crime classes (21%); general delinquency classes (13%); and cognitive-behavioral classes (10%).
- It is common for youth on diversion to be mixed in with youth who are court-ordered to classes or work crews, or with who are on juvenile probation. In addition, some programs mix diverted youth with youth referred from schools and community-based agencies.
- In 94 percent of counties, there is some parental component required for diversion ranging from intake meetings to class attendance.
- Additional services counties provided at the time of diversion include referral to other services (38%); mental health screening or assessment (33%); and chemical dependency screening or assessment (30%). More than one-third of counties (35%) provide no additional referrals or services through diversion.

STEP 10. INCENTIVES

According to the Models for Change *Juvenile Diversion Guidebook*, diversion programs often use incentives to motivate youth and their caretakers to participate in the diversion process. The most frequent incentive is that the justice system will take no further action in prosecuting the offense following diversion, and that the youth's participation in diversion will not be used against them in any future proceedings. Some diversion programs also reduce program requirements as youth progress, including less reporting, reduced monitoring or diminishing requirements as time goes on.

Minnesota Findings:

Section D: Select Recommendations

- Build incentives into diversion, including completing diversion when conditions are done; CWS in exchange for fines or fees; CWS hours credited for school attendance, grades or other areas with which youth are struggling; and other acknowledgement of improving attitudes and behaviors.
- Exploration of the need for gender-specific programming for girls and culturally specific programming for minority races and cultures is necessary, based on referral numbers and minority overrepresentation.
- Diversion contracts should clearly include which behaviors or conditions are grounds for forwarding charges to the county attorney, and what degree of communication youth must maintain with the diversion provider.
- The most common consequence for failure to comply with diversion is forwarding of charges. Diversion providers should consider that youth can fail diversion without forwarding of low-level charges. Future offenses would not receive an additional diversion opportunity but one-time offenders would not be subject to the juvenile justice system.
- Assign a consistent range of CWS hours for diverted youth based on their offense level to ensure a comparable diversion experience across the state; Similarly, establish a state-level CWS compensation rate so that youth have a comparable experience with victim restitution based on their offense and degree of harm caused the victim.

- The most common incentive for youth to participate in diversion in Minnesota is the dismissal of the petition or citation. Ninety-one percent of counties stated this as the only incentive built into diversion programming.

STEP 11. CONSEQUENCE FOR FAILURE TO COMPLY

When implementing a diversion program, planners must decide on appropriate consequences for youth in the event they do not comply with their diversion conditions. According to the Models for Change *Juvenile Diversion Guidebook*, a common system-response for failing youth is to rescind diversion and return the youth to formal processing. In addition to revocation of the diversion opportunity, program adjustments are common for youth who are non-compliant with diversion conditions, including increasing the length of the program, or increasing the frequency and/or intensity of monitoring.

Minnesota Findings:

- The most common consequence for failure to comply with diversion named by interview participants is the forwarding of charges to juvenile court (93%). More than half (52%) also stated that they will extend the time a youth is on diversion or they will assign additional CWS hours (23%).
- The most common issues leading to revocation of the diversion agreement are failure to attend meetings or class sessions (68%) or getting a new delinquency charge while on diversion (68%). Non-delinquency level tickets or citations can also lead to revocation in nearly half of counties (46%).

STEP 12. PROGRAM COMPLETION/EXIT CRITERIA

Diversion providers must establish and agree upon the criteria for youth to successfully complete diversion. According to the Models for Change *Juvenile Diversion Guidebook*, criteria may be time-based, performance-based or both. The Models for Change *Juvenile Diversion Guidebook* recommends that clear exit criteria are explained to the youth and parents, and that programs have a way to monitor youth's progress to ensure they are improving.

Minnesota Findings:

- Programs vary in whether a youth successfully completes diversion as soon as all conditions are met, or whether they remain under their contract until the maximum diversion time period has passed.
- In order to successfully complete diversion, it is most

Section D: Select Recommendations Continued

- Include victim restoration activities in diversion whenever possible to promote reparation of harm and victim empathy. These include CWS, victim offender mediation, apology letters and victim empathy education.
- Whenever possible, base meetings, classes and other program components in community-based locations other than justice system buildings. This is to limit contact with formal system staff and clients.
- Avoid mixing together youth of differing risk levels in diversion services and interventions
- Deliver or contract with agencies that deliver quality educational or cognitive-behavioral programming. In order to have the most relevance and impact, youth should be grouped by similarity of offense, age or other attributes relevant to targeted service delivery.

common for youth to have to complete their CWS obligation (61% of counties), pay restitution (48%) and complete apology letters (44%). A large percentage of counties (41%) listed “other” criteria, such as attending/completing classroom components, paying fines and fees, and attending school. The diversion agent is most often responsible for making the determination condition.

SECTION E: LEGAL PROTECTIONS

STEP 13. INFORMATION USE

Many diversion programs require the collaboration of county attorneys, probation providers, community-based agencies, schools, law enforcement and other contracted partners. It is recommended that diversion programs have policies in place regarding how information on juveniles is to be collected and used, as well as protections around confidentiality.

Minnesota Findings:

- In roughly one-third of counties (34%), the extent of information- sharing between the county attorney and diversion provider are limited to notification of program completion or termination. In about one-quarter of counties (23%), there are regular updates or extensive information-sharing on youth regarding diversion progress.
- The majority of counties (88%) rate the relationship and communication between the diversion provider and county attorney as extremely collaborative and clear. No counties rated their relationship as challenging or difficult.

STEP 14. LEGAL COUNSEL

According to the Models for Change *Juvenile Diversion Guidebook*, this step directs policy-makers to determine what access to counsel youth will have as a part of diversion. The Models for Change *Juvenile Diversion Guidebook* further explains that even if state statute does not specify the role of counsel, the policies of individual counties can provide for a wide range of defense counsel roles. In addition, youth must be informed of the full ramifications of failing diversion.

Section E: Select Best Practices

- Youth in diversion should be informed about the types of information collected about them and how that information might be shared.
- Youth should be given the opportunity to consult counsel about any requirements for an admission of guilt prior to their decision to participate in diversion.
- It is recommended that diversion programs have a policy stipulating that subsequent admissions of problematic conduct or other issues by youth on diversion not be used against them in future legal proceedings.

Section E: Select Recommendations

- Make youth aware in delinquency-level cases that they would have a right to public defender in court.
- Consider providing youth and families with a public defender, prior to making a diversion decision in the case of diversion for GM and F level offenses, given the increased consequences associated with these offenses if adjudicated.
- Sharing of information about youth on diversion should be limited to that which is necessary for effective service provision and to facilitate completion of conditions.
- Create or identify an existing database to track county-level diversions statewide.

Minnesota Findings:

- In Minnesota, the right to counsel applies only if youth commit a misdemeanor level offense or higher. Status or petty offenses are not entitled to representation by a public defender.
- In 82 percent of counties, youth are informed that diversion is voluntary; in 78 percent of counties youth are informed that they have the right to go to court. In nearly two-thirds of counties (64%), youth must admit to the offense in order to participate in diversion. Also, six in 10 counties (62%) stated that youth are told that information about how they perform in diversion can be shared with the court.

SECTION F: QUALITY

STEP 15. PROGRAM QUALITY

According to the Models for Change *Juvenile Diversion Guidebook*, diversion planners should attend to both program development and maintenance in order to achieve a high-quality program. In the maintenance phase, program planners should provide for quality assurance by creating monitoring processes, collecting and reporting data, reviewing policies and assessing program fidelity.

Policies and procedures should be set out in a manual to aid with training and implementation in a consistent manner across diversion providers and over time. All personnel who operate the diversion program, as well as all providers of diversion services, should be trained in diversion policies and procedures, as well as topics that help to understand the risk factors and service needs of youth. The Models for Change *Juvenile Diversion Guidebook* emphasizes that setting up a data collection system is important to measure program integrity and to provide a foundation for program evaluation.

Minnesota Findings:

- In three-quarters of counties (73%), the diversion programs in operation are not replicas of any other diversion programs of which interview participants were aware. While components of diversion or curricula elements may have been replicated from other counties or jurisdictions, most counties are not implementing or replicating a model program.
- Diversion providers felt it would be most helpful to have information about best practices in juvenile diversion (66%); followed by information about other diversion programs in the state (65%); and information on other programs' service numbers and outcomes (37%).
- About four in 10 counties (43%) use diversion program data for internal reports or dissemination, followed by one-third (33%) that use or publish diversion data in external publications such as annual reports or data summaries for county boards, agency directors or other stakeholders.

STEP 16. OUTCOME EVALUATION

According to the Models for Change *Juvenile Diversion Guidebook*, every diversion program should have a way to determine whether it is meeting its goals and objectives. Good program evaluations not only indicate whether objectives are being met, but also identify when, why and for whom they are not met.

Program evaluation methods should be in place before a program begins, and the outcomes evaluated will depend on the objectives of the diversion program. Common diversion goals include reducing recidivism; reducing system costs; increasing successful outcomes for the child; increasing accountability; reducing labeling; and restoring victims.

Minnesota Findings:

- Most counties have multiple ways that they maintain data on youth in diversion, including computer databases as well as a paper files. Less than half of counties (44%) reported that they track recidivism on diverted youth.
- Sixty-two percent of counties reported tracking diversion completion rates. Those that do not track completion often stated that no youth have failed to complete diversion or the non-completion numbers were extremely low. Nearly half of counties (47%) estimated their non-completion rate at 5 percent or less, with an additional third of counties (33%) stating their non-completion rate is 10 percent or less.
- Less than half of counties (44%) reported that they track recidivism on diverted youth. Those that do also vary in the point at which a new offense is counted (arrests, petition, adjudication); level of offense required (status/petty, misdemeanor or higher); and for how long diversion is tracked (every six months, once a year, more than one year).
- Additional outcome measures collected by diversion providers include pre-post tests; participant and parent satisfaction surveys; criminal attitudes and behavior surveys; and victim/community surveys. Eighty-two percent of counties reported no additional outcome measures beyond recidivism.
- Nearly one-quarter of all counties (22%) reported that no race or ethnicity data is collected on youth diverted. An additional 13 percent of counties stated that their race data is often incomplete or only as complete as the data provided by the referral source.

Section F: Select Best Practices

- It is recommended that diversion programs be based on model programs with proven effectiveness.
- Diversion programs should employ a records management system that includes information supporting the core functions of diversion.
- Outcome evaluation can inform a program about unmet needs of participants, and components of a program that may be working well or in need of revision.
- Diversion programs have myriad outcomes, including recidivism, all of which should be evaluated to show the impacts and value of diversion programming.

Section F: Select Recommendations

- Explore model diversion programs to assess the degree to which they are successfully preventing further involvement in the juvenile justice system. Implement effective diversion methods.
- County attorneys collectively should consider standardized uniform data collection methodologies across jurisdictions.
- Access to individual diversion records should be limited to that which is needed to provide services and evaluate program effectiveness.

SECTION G: MINNESOTA DIVERSION NEEDS

Because diversion directors and providers have first-hand knowledge in administering juvenile diversion programs, interview participants were asked what the biggest need is in their county to better serve or divert youth. Similarly, study participants were asked if there is a demographic of youth diverted that they wished they could serve better.

Minnesota Findings:

- Minnesota diversion providers express that the main need areas to better accomplish youth diversion are program quality; financial resources; collaboration and staffing.
- Specific service needs mentioned by Minnesota providers included services for youth with mental health and chemical dependency needs; counseling access; and educational programs that address specific offending behavior.
- Providers suggested that diversion could be used for a broader level of offenses, including some low-level person offenses.
- Programming that is specific to girls and youth from communities of color in Minnesota are needed areas in diversion programming.

Section G: Select Recommendations

- Consider a professional association related to juvenile diversion to keep providers up-to-date on current services in the state, model programs, training opportunities and legislative needs.
- Continue to evaluate diversion for the possible expansion to meet additional offenses and low-level person offenses.
- Prioritize gender- and culturally specific programming components in diversion.

CONCLUSION

Minnesota utilizes a variety of strategies to divert youth from deeper, more formal involvement in the justice system. These provisions acknowledge that diversion is a more effective use of limited justice system resources, and that youth may benefit from the opportunity to make personal changes and restitution without having an offense on their record.

The findings of this study support that diversion criteria and services vary widely among Minnesota's 87 counties. While county attorney discretion around eligibility and individualized services for youth are important components of diversion, some aspects of diversion could be standardized by providers around the state for a more equitable diversion experience. These 16 planning steps of the MacArthur Foundation's Models for Change *Juvenile Diversion Guidebook*, coupled with the Minnesota specific data provided in this report, can serve as a catalyst for discussion regarding opportunities for consistency.

Regardless of whether Minnesota counties create greater uniformity in pretrial diversion activities, all counties should prioritize the use of best practices in the delivery of their diversion program. These include family and community involvement, restorative justice principles, and assessment of program effectiveness, to name a few.

In addition, the broader the range of offenses eligible for diversion and the more community-based the intervention strategies, the less contact youth will have with formal justice system.

Diversion is an important aspect of the justice system, and barriers to access and eligibility should be addressed. This will allow the greatest number of youth to make amends to victims and communities, and address the underlying issues that contribute to future delinquent behavior.

Access the full report with citations at the Minnesota Department of Public Safety
Office of Justice Programs website:

OJP.DPS.MN.GOV

Dana Swayze, MSW and Danette Buskovich, MSW

Minnesota Department of Public Safety Office of Justice Programs
Statistical Analysis Center
445 Minnesota Street, Suite 2300, St. Paul, MN 55101-1515

Preferred Citation: Swayze, D., & Buskovich, B. (2012). Minnesota Juvenile Diversion: A Summary of Statewide Practices and Programming, Executive Summary. Minnesota Department of Public Safety Office of Justice Programs.

This report may be reproduced without restrictions. Citation of the source is appreciated. For questions regarding this report, contact the Minnesota Office of Justice Programs, Statistical Analysis Center at (651) 201-7309 or in writing at the address above.



DEPARTMENT OF PUBLIC SAFETY
OFFICE OF JUSTICE PROGRAMS

ojp.dps.mn.gov